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13 Attorneys for Defendant, Marco Antonio Topete

14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF YOLO

16 THE PEOPLE OF THE STATE
17 OF CALIFORNIA,

18 Plaintiff,

19 vs.

20 MARCO ANTONIO TOPETE,

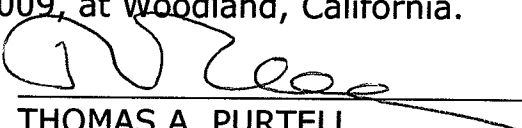
21 Defendant.

22 Dept. 2 Case No. 08-3355

23 DEFENDANT'S PROPOSED
24 JUROR QUESTIONNAIRE

25 The defendant hereby submits the following proposed juror
questionnaire.

Executed on 4/28, 2009, at Woodland, California.


THOMAS A. PURTELL
Attorney for Defendant,
MARCO ANTONIO TOPETE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF YOLO

PROSPECTIVE JUROR QUESTIONNAIRE

This questionnaire was designed to save you, the attorneys and the Court time in gathering information from each potential juror. We apologize for the length of this questionnaire, but your honest answers to the questions will help the process of orally questioning each juror. As part of your jury duty I am asking you to fill out this questionnaire. I have approved all of the questions you are being asked. It is my hope that by using this questionnaire, the process for jury selection will be shortened and more private. Please answer the questions as completely and as honestly as you can. This information will be used by the Court and counsel solely in the selection of this jury and for no other purpose. However, the information contained in this questionnaire will become part of the court's permanent record and will remain a sealed document.

Because this questionnaire is part of the jury selection process, the questions must be answered by you under penalty of perjury. You must fill out the questionnaire by yourself and not discuss it with anyone else. If you need help in reading the questionnaire or writing the answers, please tell that to the bailiff and he will find someone to assist you.

If you want to make further comments concerning your answers, please use the Explanation Sheet at the back of your questionnaire.

As you answer the questions please keep in mind that there are no "right" or "wrong" answers. You are only expected to answer the questions to the best of your recollection and ability. Please be thorough. However, if truthful, an "I don't know" or "I can't remember" answer is acceptable. Where dates are requested, approximate dates are satisfactory if the exact dates are unknown. Complete answers are far more helpful because they make long and tiresome questioning unnecessary and shorten the time it takes to select a jury.

Some of these questions may call for information of a personal nature that you may not want to discuss in public, i.e., in an open courtroom with the press and/or public present. In any instance where you feel your answer may invade your right to privacy or might be embarrassing to you, you may indicate this by circling the question number. You need not answer any question so marked. The Court will then give you an opportunity to explain your request for confidentiality in a closed hearing.

Please answer all the questions to the best of your ability so I will not have to return the questionnaire to you to be completed.

Thank you for your cooperation.

Honorable _____
JUDGE OF THE SUPERIOR COURT

Personal Description

1. Juror Identification Number (From your juror badge): _____
2. Place of birth: _____
3. Are you: Male _____ Female _____
4. Age: _____

Residence

5. In what neighborhood, city and county do you live? **DO NOT LIST YOUR STREET ADDRESS.**

6. How long have you lived at your present address? _____ (years)
7. How long have you lived in California? _____ (years)
8. What were the last two places that you lived, including the neighborhood, city, county and state?
1) _____
For how long? _____ (years)
2) _____
For how long? _____ (years)
9. Where did you grow up? _____
10. Which of the following best describes where you live?
 _____ Own home
 _____ Own apartment/condo
 _____ Rental house
 _____ Rental apartment/condo
 _____ Live with friends or relatives
 _____ Other (please specify) _____
11. Have you ever lived or worked in the area of Dunnigan in Yolo County? ☐ Yes ☐ No

 If yes, please give the dates and indicate the name of the business or the street of the residence.

12. Are you familiar with this area, even if you have never lived there? ☐ Yes ☐ No

Juror ID# _____

13. Have you ever driven through this area? ☐ Yes ☐ No
14. Do you have any health problems that might make it difficult for you to serve as a juror in a 4-month trial? ☐ Yes ☐ No

If yes, please explain: _____

15. Do you have any personal problems at home or at work that might distract you during the trial? ☐ Yes ☐ No

If yes, please explain: _____

16. Are you taking any medications that might make it difficult for you to concentrate on a trial of this length and seriousness? ☐ Yes ☐ No

If yes, please explain: _____

Occupation

17. Are you currently? (please check one)

| | |
|-----------------------------------|---------------------------------------|
| _____ Employed | _____ Student |
| _____ Retired | _____ Homemaker |
| _____ Disabled | _____ Unemployed and looking for work |
| _____ Unemployed not seeking work | |

If you are now employed:
Name and location of employer: _____
Job title: _____
Duties (describe briefly): _____
How long have you worked at your current job? _____

18. If you (a) have been with your current employer less than five years or (b) if you checked unemployed, retired, disabled or student, please answer the following questions about your last job:

Name and location of employer: _____
Job title: _____
Duties (describe briefly): _____

Juror ID# _____

19. Please list the types of jobs you have had or work you have done as an adult. (Start with your first job and work forward.)

| Type of work | Employer | Dates |
|--------------|----------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

20. Is your current job considered management? ☐ Yes ☐ No

If yes, how many people do you manage or supervise? _____

Do you have authority to hire or fire other employees? ☐ Yes ☐ No

21. Have you ever had a job which was considered management? ☐ Yes ☐ No

If yes, how many people did you manage or supervise? _____

22. Have you ever been fired, laid off or asked to resign from a job? ☐ Yes ☐ No

If yes, please explain: _____

Education

23. What is the highest level of education you completed?

| | |
|------------------------------------|------------------------------------|
| _____ Some high school | _____ High school graduate |
| _____ Less than 2 years of college | _____ More than 2 years of college |
| _____ College graduate (BA or BS) | _____ Technical or business school |
| _____ Post graduate degree | |

24. If you attended school after high school, including any trade or vocational schools, please list the type of school, your major area of study and any certificates or degrees you received:

25. What other educational programs (night schools, part-time study, certification programs) have you attended?

26. Have you or anyone close to you had any training, education or experience with the following areas? (Circle as many as apply):

| | | |
|---------------------|----------------|-------------------|
| Medicine | Nursing | TV / Radio |
| Psychology | Counseling | Crime Scene |
| Drugs / Alcohol | Law | Mental Health |
| Security | Corrections | Law Enforcement |
| Guns / Weapons | Justice System | Investigations |
| Biology / Chemistry | Child Abuse | Victims of Crimes |
| Newspapers | | |

27. What do you consider your greatest area of expertise? _____
- _____

Family Life and Others in Household

28. What is your marital status? (If divorced, please check divorced, not single.)

_____ Single/never married

_____ Married for _____ months/years

_____ Lived with significant other for _____ months/years

_____ Separated for _____ months/years

_____ Divorced for _____ months/years

_____ Remarried for _____ months/years

_____ Widowed for _____ months/years

How many prior marriages? _____

29. Please describe how you were raised:

_____ Both parents lived together

_____ Raised by father alone

_____ Raised by father and stepmother

_____ Raised by mother alone

_____ Raised by mother and stepfather

_____ Raised by relatives

_____ Other. Please explain: _____

30. What are/were your parents and/or step-parents' occupations? (If retired or deceased, what did they do?)

Mother: _____ Step-Mother: _____

Father: _____ Step-Father: _____

Juror ID# _____

31. Do you have children or step-children? ☐ Yes ☐ No
If so, please answer the following:

| Sex | Age | Child living with you? | Level of education | Occupation |
|-----|-----|---------------------------|-----------------------|------------|
|-----|-----|---------------------------|-----------------------|------------|

| | | | | |
|-------|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

Spouse/Partner's Background

Please answer the following questions regarding your present spouse or non-marital partner. If you are separated, widowed or divorced, please complete all of the questions regarding your former spouse or partner.

32. Place of birth: _____

33. What is your spouse or partner's employment status?

| | |
|------------------|-----------------|
| _____ Employed | _____ Student |
| _____ Unemployed | _____ Homemaker |
| _____ Retired | _____ Disabled |

If a student, area of study: _____

If employed, name of employer and location of job:

Job title: _____

Duties (describe briefly): _____

Length of employment: _____ (years)

34. Does his/her job involve supervision or management? ☐ Yes ☐ No

Juror ID# _____

35. If spouse or partner is retired, unemployed, disabled or a homemaker, please list his/her last job title:

Duties (describe briefly): _____

Termination date: _____ (year)

36. If divorced or widowed, what kind of work did spouse do? _____

37. What civic, social, religious, charitable, volunteer, professional or business organizations does **your spouse** or significant other belong to?

Prior Jury Service

38. Have you ever had any previous experience as a juror? ☐ Yes ☐ No

If you have served on a jury in the past, please state:

| Year | Civil/ Criminal | Type of case | Reach a verdict? |
|-------|--------------------|--------------|---------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

Were you ever a jury foreperson? ☐ Yes ☐ No

Have you ever served on a grand jury? ☐ Yes ☐ No

39. Have you ever appeared before a grand jury? ☐ Yes ☐ No

40. Do you know anyone who served as a juror in a capital case and had to decide if a defendant should receive the death penalty or life without the possibility of parole?

☐ Yes ☐ No

Legal Experience

41. Have you ever taken courses or had special training in any matter related to law enforcement?
☐ Yes ☐ No
If yes, please describe: _____

42. Have you ever taken courses or had training in the legal system, such as in law school or paralegal institutions? ☐ Yes ☐ No
If yes, please describe: _____

43. Have you ever used the services of the District Attorney's Family Support, Consumer Fraud, or Victim/Witness divisions? ☐ Yes ☐ No
- 44a. Do you or do any of your close friends or family members work in law enforcement (e.g. Attorney General, California Youth Authority, County Jail, Department of Corrections, District Attorney, Drug Enforcement Agency, FBI and CIA, Federal Prisons, Highway Patrol, Immigration and Naturalization, Internal Revenue Service, Juvenile Delinquency Agency, Military Police, Police Department, Probation or Parole Agency, Security/Detective Service, Sheriff's Department, State Police, State Prison, Transit Police, US Marshall, United States Attorney)? ☐ Yes ☐ No
If yes, please explain: _____

- 44b. Do you have any relatives or close friends who are attorneys who practice primarily criminal law (e.g., prosecuting attorney for the District Attorney, Attorney General, United States Attorney; defense attorney for a county, state or federal Public Defender's Office or in private practice)? ☐ Yes ☐ No
If yes, please describe: _____

45. Do you know any person connected to the Court system, such as a lawyer, judge, bailiff, clerk, or court reporter? ☐ Yes ☐ No
If yes, please explain: _____

46. Have you or any family member participated actively (either by way of contributing money or campaigning for a candidate) in the election for a District Attorney? ☐ Yes ☐ No
If yes, please explain: _____

- 47a. Have you or any member of your family ever been a PARTY TO A LAWSUIT (including a small claims suit)? ☐ Yes ☐ No
If yes, please explain: _____

- 47b. Have you ever had a bad experience with any type of attorney (for example, subjected to sit, contracted for services not satisfactory or felt justice was not served)? ☐ Yes ☐ No

- 48a. What is your opinion of criminal defense attorneys? _____

- 48b. What is your opinion of prosecuting attorneys? _____

The Criminal Justice System

49. For each of the following statements, please rate how much you agree or disagree with each.

- a. Regardless of what the law says, a defendant in a criminal trial should be required to prove his or her innocence.

_____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly

- b. In general, persons convicted of serious crimes receive lenient sentences from the courts.

_____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly

- c. It is better for society to let some guilty people go free than to risk convicting an innocent person.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly
- d. The rights of persons charged with crimes are better protected than the rights of the alleged victims.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly
- e. If a person is charged with a crime as serious as murder, he / she should be required to testify.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly
- f. Prison inmates who have been convicted of horrible crimes receive too many luxuries, such as Cable TV, workout facilities, etc.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly
- g. The criminal justice system makes it too hard to convict people accused of crimes.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly
- h. If a person is charged with a serious crime, he / she is probably guilty.
- _____ Agree strongly
_____ Agree somewhat
_____ Disagree somewhat
_____ Disagree strongly

i. The police are trustworthy.

_____ Agree strongly
 _____ Agree somewhat
 _____ Disagree somewhat
 _____ Disagree strongly

j. The courts are trustworthy.

_____ Agree strongly
 _____ Agree somewhat
 _____ Disagree somewhat
 _____ Disagree strongly

k. Police officers sometime give false testimony in court.

_____ Agree strongly
 _____ Agree somewhat
 _____ Disagree somewhat
 _____ Disagree strongly

50. Other than traffic court, have you ever had any interaction with the court system.
 (check all that apply):

| | |
|--------------------------|---------------------|
| _____ Criminal court | _____ Probate court |
| _____ Civil court | _____ Family court |
| _____ Small claims court | _____ Divorce court |
| _____ Other courts | |

In your interactions with the court, did you feel that the system treated you fairly?

☐ Yes ☐ No

Please explain: _____

51. Have you, a family member or close friend ever been a victim of a crime? ☐ Yes ☐ No

If yes, please state who the victim was (relationship to you) and what the crime was:

Was anyone arrested? ☐ Yes ☐ No If yes, what was the outcome? _____

If there was a trial, did you testify? ☐ Yes ☐ No

52. Have you ever been accused of, charged with, or convicted of any crime, or been the subject of a criminal investigation, other than a minor traffic violation? ☐ Yes ☐ No

If yes, please state the date, crime, who brought the charges and the outcome: _____

53. Have any of your family members or close friends ever been accused of, charged with, or convicted of any crime, or been the subject of a criminal investigation, other than a minor traffic violation? ☐ Yes ☐ No

If yes, please state the date, crime, who brought the charges and the outcome: _____

Do you feel they were justly investigated, accused, charged or convicted? ☐ Yes ☐ No

Please explain: _____

54. Have you ever been a witness or given a statement in any type of legal proceeding? ☐ Yes ☐ No

If yes, please explain: _____

55. Have you ever called the police for any reason? ☐ Yes ☐ No If yes, please explain: _____

56. Have you ever filed a police report? ☐ Yes ☐ No

If yes, please explain: _____

57. Have you, a family member or close friend ever donated money, belonged to or otherwise supported police, sheriff or other crime-fighting organization? ☐ Yes ☐ No

If yes, who (relationship to you): _____

Which group(s)? _____

58. Have you taken any extra precautions to protect yourself, your family or your home from crime?
☐ Yes ☐ No If yes, please explain: _____

59. Have you ever belonged to, or contributed to, any organization that has as one of its specific goals, the advancement or protection of the rights of either victims or defendants? ☐ Yes ☐ No
60. Do you have strong feelings about the criminal justice system? ☐ Yes ☐ No
Please explain: _____

61. Do you have a close friend or relative who has died from other than natural causes?
☐ Yes ☐ No If so, what were the circumstances? _____

62. Has anyone close to you died recently? ☐ Yes ☐ No If so, who died and what were the circumstances? _____

63. Have you ever used physical force to defend yourself or another? ☐ Yes ☐ No
If so, please describe the circumstances: _____

64. Do you own any weapons? ☐ Yes ☐ No If so, what type? _____
65. Have you ever fired a gun? ☐ Yes ☐ No If so, for what purpose? _____

66. Do you believe people have the right to keep firearms for protection? ☐ Yes ☐ No
Please explain: _____

67. Have you ever been to a gun show or gun sale? ☐ Yes ☐ No

68. Have you ever seen a gunshot wound on a human being? ☐ Yes ☐ No If so, what were the circumstances? _____

69. Do you or any member of your family donate money to or support the aims of any organization that has as its purpose either the advocacy of the right to own and possess firearms or the prohibition of the right to own or possess firearms? ☐ Yes ☐ No

If yes, please explain: _____

Law Enforcement

70. Have you ever applied for a law enforcement job? ☐ Yes ☐ No

If so, what job? _____

71. What is your general attitude toward law enforcement officials? _____

72. Have you ever had any particularly good or bad experiences with law enforcement officials? ☐ Yes ☐ No

If so, what happened? _____

73. Would you tend to give greater weight, or lesser weight, to the testimony of a police officer solely because of his or her official capacity?

☐ More weight to police officer ☐ Less weight to police officer

☐ Equal weight to police officer

74. Have you ever participated in any organization concerned with crime prevention, law enforcement, victim's rights or changing the laws? ☐ Yes ☐ No

75. Do you have any close friends or relatives who are sworn peace officers? ☐ Yes ☐ No

If so, have any of them suffered any injuries on the job? ☐ Yes ☐ No

76. Have you followed any news stories about officers who were injured or killed in the line of duty? ☐ Yes ☐ No

If yes, which cases have you followed? _____

77. Do you know anyone who has resisted an arrest by a law enforcement officer? ☐ Yes ☐ No

If so, who (in relationship to you)? _____

78. Some people believe there is no worse crime than intentionally killing a law enforcement officer. How do you feel?

☐ Agree ☐ Disagree ☐ No Opinion

Military Experience

79. Have you or your spouse ever been in the military, including the reserves, National Guard or ROTC?

☐ Yes ☐ No If yes, was it You _____ Spouse _____ Both _____

Which branch? _____

Dates of service? _____

Type of work performed? _____

What special schools did you attend or training did you receive? _____

Did you ever have to take a human life? ☐ Yes ☐ No

Have you ever been in the military police? ☐ Yes ☐ No

Have you ever had a military disciplinary action taken against you? ☐ Yes ☐ No

If yes, please explain the nature and result of the disciplinary action: _____

Have you ever served on court martial proceedings? ☐ Yes ☐ No

Personal Data

80. What civic, social, religious, charitable, volunteer, professional or business organizations do you belong to?

81. What are your hobbies, major interests, recreational pastimes and spare-time activities?

82. Do you have moral, religious or other principles which would make it difficult to determine whether someone is guilty or not guilty of a crime? ☐ Yes ☐ No

If yes, please explain: _____

83. Do you attend religious services? ☐ Yes ☐ No

If yes, approximately how often? _____

What is the name of your place of worship? _____

84. How much do you think a person's background and upbringing affects his/her adult life?

_____ a great deal

_____ some

_____ quite a bit

_____ not much

_____ none

85. In terms of your political outlook, do you usually think of yourself as: (optional)

_____ Very conservative

_____ Somewhat liberal

_____ Somewhat conservative

_____ Very liberal

_____ Middle-of-the-road

Knowledge of Participants

86. Do you know:

The Defendant:

Marco Antonio Topete

☐ Yes ☐ No

Members of defendant's family?

☐ Yes ☐ No

The Prosecutors:

Jeff Reisig

☐ Yes ☐ No

Garrett Hamilton

☐ Yes ☐ No

Defense Attorneys:

Hayes Gable, III

☐ Yes ☐ No

Thomas Purtell

☐ Yes ☐ No

The Judge:

Hon. Timothy Fall

☐ Yes ☐ No

Any Courtroom staff?

☐ Yes ☐ No

Any other potential jurors?

☐ Yes ☐ No

If yes, Who? _____

Pretrial Publicity

Through an Indictment issued by the Yolo County Grand Jury, it is alleged that on June 15, 2008, Marco Antonio Topete with premeditation, shot and killed Jose Antonio Diaz, an on-duty Yolo County Sheriff's Deputy. Deputy Diaz was engaged in the performance of his official duties during the time of the shooting. The Grand Jury Indictment also alleges that Marco Antonio Topete shot Deputy Diaz while lying in wait, and that he did so in order to escape from a lawful arrest, and that he committed the crimes for the benefit of a criminal street gang. The defendant has entered not guilty pleas to all of the charges and denied that any of the enhancements are true.

87. Please describe your initial reaction to what you saw or heard when the Judge first told you about what the charges in this case were:

88. Have you read or heard anything about this case before you came to court today?
☐ Yes ☐ No

If yes, please circle each of the ways you heard about the case:

| | | | |
|-----------|------------------------|----------------|--------|
| Newspaper | Television | Radio | Police |
| Witness | People who knew victim | People at Work | Family |
| Internet | Other: _____ | | |

89. Specifically, have you seen any news coverage of this case? ☐ Yes ☐ No

If yes, what do you remember? _____

90. This case will probably be covered by the local newspapers, TV, Radio or on the Internet. Does the fact of such coverage give you any opinions about the case? ☐ Yes ☐ No

If yes, please explain? _____

91. If you have heard about this case, what were your attitudes, opinions or thoughts about this case before you came in this morning, based on what you have previously heard?

92. If your attitudes or beliefs about this case have changed over time, please explain:

93. Based on what you have read or heard about this case, have you formed any opinions about whether the defendant is guilty? ☐ Yes ☐ No If yes, what is your opinion? _____

94. Based on what you have read or heard about this case, have you formed any opinions about what penalty the defendant should receive if he is guilty? ☐ Yes ☐ No If yes, what is your opinion? _____

Information from Outside Sources

95. What is your main source of news? (If it is a newspaper, state which one.) _____
96. During the past year, have you followed newspaper or television reports for any particular criminal case(s) in Yolo County? ☐ Yes ☐ No
- If yes, which case(s): _____
97. Have you followed any national high-publicity cases (e.g. OJ Simpson, Scott Peterson, Robert Blake, Martha Stewart, Cary Stayner, Michael Jackson)? ☐ Yes ☐ No
- If yes, which case(s): _____

If so, have any of these high publicity trials caused you to change your opinions about judges, prosecutors, defense attorney, police officers or criminal defendants? ☐ Yes ☐ No

If so, how? _____

98. Do you follow newspaper, radio and TV stories about crime in your area? ☐ Yes ☐ No
99. Do you ever watch TV programs like "Cops," "America's Most Wanted," or "Unsolved Mysteries?" ☐ Yes ☐ No
100. Do you listen to talk radio? ☐ Yes ☐ No If yes, who do you listen to? _____

Have you ever called in to express an opinion? ☐ Yes ☐ No If so, on what topic? _____

Drugs and Alcohol

101. If you learned that a witness currently uses or formerly used or abused drugs or alcohol, would that fact affect your evaluation of the credibility of that witness? ☐ Yes ☐ No

Please explain: _____

102. Have you ever been arrested for driving under the influence? ☐ Yes ☐ No

103. Have you, a close friend or relative ever had a problem involving the use of drugs or alcohol? ☐ Yes ☐ No

If yes, please explain: _____

104. Do you live or work in an area where drug use or drug sales is a problem? ☐ Yes ☐ No

If yes, please explain: _____

105. Some people have such an adverse reaction to drug users and drug sellers that they are unable to make decisions about other crimes. How do you feel?

106. Are you familiar with the drug "methamphetamine", also known as speed, meth or crank? ☐ Yes ☐ No

107. Have you ever known anyone who has used the drugs listed above? ☐ Yes ☐ No

If yes, please explain: _____

108. Have you ever seen anyone under the influence of methamphetamines? ☐ Yes ☐ No

If yes, what physical or behavioral changes did you notice: _____

109. Do you have any opinions about drug use or drug users that may interfere with your ability to judge the facts of this case? ☐ Yes ☐ No

If yes, please explain: _____

110. Do you believe that someone who deals drugs is probably guilty of other crimes, too?
☐ Yes ☐ No

Experience Regarding Race or Ethnic Matters

111. What is your ethnic background? _____

112. Is English your first language? ☐ Yes ☐ No If not, what was? _____

Is it difficult for you to understand English? ☐ Yes ☐ No

113. Are you, a family member or close friend a member of any group or organization which is concerned with racial or ethnic issues? ☐ Yes ☐ No
 If yes, which one(s)? _____

114. Do you think the police treat all ethnic groups the same in Yolo County? ☐ Yes ☐ No

115. Is there any racial or ethnic group with which you do not feel comfortable? ☐ Yes ☐ No

116. Do you believe that people of certain races commit more crimes than others? ☐ Yes ☐ No

If yes, which races? _____

117. Have you had prior experiences with people of other races or ethnic backgrounds that you would describe as negative or unpleasant? ☐ Yes ☐ No

Please explain: _____

118. Do you have any type of personal feelings about persons of other races, ethnic backgrounds or lifestyles that would interfere with your ability to judge this case fairly as to all witnesses and parties? ☐ Yes ☐ No

Please explain: _____

119. Have you been exposed to racial, sexual, religious or ethnic prejudice? ☐ Yes ☐ No

If so, would this have any impact on your ability to be fair and objective? ☐ Yes ☐ No

Psychology / Psychiatry

120. Some people think that psychiatric or psychological testimony has no place in the courts? Do you: ☐ Agree ☐ Disagree
121. What is your general opinion about the use of psychology or psychiatry to explain human behavior in legal proceedings?

122. Do you have any preconceived ideas about mental health testimony from experts which might prevent you from listening to and honestly and fairly evaluating such testimony?
☐ Yes ☐ No
If yes, please explain: _____

123. Have you ever been prescribed medication by a mental health professional? ☐ Yes ☐ No
If yes, please explain: _____

124. Have you ever had a bad experience with a mental health professional? ☐ Yes ☐ No
If yes, please explain: _____

Street Gangs

125. Are you aware of gang activity in your neighborhood or community? ☐ Yes ☐ No
If so, what gangs do you believe exist in Yolo County? _____

126. Are all gang members capable of murder? ☐ Yes ☐ No
127. What do you believe the purpose of a gang is? _____

128. Do you know, or have you known, any people you believed to be gang members?
☐ Yes ☐ No
129. Do you believe once a person has lied, they are no longer credible?
☐ Yes ☐ No ☐ Depends

Juror ID# _____

130. Have you, anyone in your family, or any close friends been afraid to provide information about criminal activity to law enforcement because of concerns about retaliation by gang members? ☐ Yes ☐ No
131. Are you familiar with the names of any gangs that you believe are active in California?
☐ Yes ☐ No If so, what names come to mind? _____

132. Have you ever noticed a person who you believed was in a gang based on the way they looked or dressed? ☐ Yes ☐ No

If yes, what did you notice? _____

133. Would you convict a person of a serious crime just because he may be involved in a gang?
☐ Yes ☐ No
134. If you found that a defendant was a member of a gang, would you be more likely to believe that he / she is guilty of murder than a person who is not a gang member? ☐ Yes ☐ No
135. Would you have concerns for your security if you were to be a juror on a case involving gang members? ☐ Yes ☐ No
136. If you have children, have you ever been concerned that they might become gang members or victims of gang-related violence? ☐ Yes ☐ No
137. To what extent are you and your family affected by gang-related violence? (please circle one.)

A Great Deal Somewhat Very Little Not at All
138. Were you aware of any gangs while you were growing up or attending school? ☐ Yes ☐ No
139. Have you or any member of your family participated in any anti-gang programs?
☐ Yes ☐ No

Attitudes Toward the Death Penalty

Death penalty trials can be divided into two possible parts: The first part is the "Guilt-determination Phase" of the trial. During this phase, the jury will be asked to decide whether or not the defendant is guilty of the charges. If the crime committed involves certain types of events that merit consideration of the death penalty, then the second phase, or the "Penalty Phase" would occur. The Penalty Phase of the trial would only take place if the jury returns a guilty verdict to the charge of First Degree Murder and finds that a special circumstance has been proven during the guilt-determination phase. (A special circumstance is an allegation that relates to the way that a first degree murder was carried out. In other words, there are enhancements to the charge of First Degree Murder which make it eligible for the death penalty. Some examples of Special Circumstances are: Murder in the course of a robbery; Murder committed while Lying in Wait; Murder after a Kidnapping; Murder of a Law Enforcement Officer, Multiple murder, Torture etc.)

Whether there will be a penalty phase of the trial will depend entirely on what the jury finds after the guilt determination phase. In order for the penalty phase to proceed, the jury would have been required to find (in the guilt-determination phase) that the defendant committed a first degree murder with at least one Special Circumstance, as defined above. (By asking questions about the death penalty, we are not implying that there will be a penalty phase. Since the death penalty is one of the possible punishments, the law requires us to ask you questions about your beliefs and attitudes toward capital punishment.)

If there is a penalty phase of the trial, the jury will decide the penalty and will have only two choices: the Death Penalty or Life in Prison Without the Possibility of Parole. Since the penalty phase is a possibility in this case, the Court is required by law to ask you about your views on the Death Penalty, or the alternative punishment of Life in Prison Without Possibility of Parole.

The jury determines the penalty in the second phase by weighing and considering certain enumerated aggravating factors and mitigating factors (bad and good things about the defendant) that relate to the facts of the crime and the background and character of the defendant, including a consideration of mercy. The weighing of these factors is not quantitative, but qualitative. It is not as if the jury can make a list and decide that there are a greater number of mitigating factors than aggravating factors, and, therefore, a verdict of life without parole is the correct punishment. In order to fix the penalty of death for a defendant, the jury must be persuaded that the aggravating factors (negative characteristics about the defendant and / or the crime) are so substantial in comparison with the mitigating factors, that death is warranted instead of life without the possibility of parole.

It is important for jurors to understand that even if we get to the penalty phase in this case, the death penalty is never mandatory. At a penalty phase, California law requires that the jurors consider all the evidence in aggravation and mitigation (that is, evidence suggesting the murder was either more serious or less serious) and then use their discretion in choosing the appropriate penalty.

1a. What are your general feelings about the death penalty? _____

1b. What are your general feelings about life in prison without the possibility of parole?

2a. Which would you say most accurately reflects your opinion regarding the death penalty for the crime of first degree murder (with special circumstances)?

- ☐ Strongly in favor
☐ Moderately in favor
☐ Neutral
☐ Moderately against
☐ Strongly against

2b. Which would you say most accurately reflects your opinion regarding the penalty of life in prison without the possibility of parole for the crime of first degree murder (with special circumstances)?

- ☐ Strongly in favor
☐ Moderately in favor
☐ Neutral
☐ Moderately against
☐ Strongly against

3. Do you have moral, religious or other principles which would make it difficult to impose the death penalty? ☐ Yes ☐ No If yes, please explain: _____

4. Does your religion take a position on the death penalty? ☐ Yes ☐ No

If so, do you agree with that position? ☐ Yes ☐ No

5. Has your opinion about the death penalty ever changed? ☐ Yes ☐ No

If yes, please explain when and why: _____

6. Do you believe the death penalty serves any purpose? ☐ Yes ☐ No Please explain your answer:

7. Are you, or have you ever been a member of any organization that takes a position one way or the other on the death penalty? ☐ Yes ☐ No If yes, please explain:

8. Have you thought about whether you were for or against the death penalty before coming to court? ☐ Yes ☐ No
9. Do you believe life in prison without the possibility of parole is a legitimate punishment for someone convicted of murder in the first degree with special circumstances?
☐ Yes ☐ No
10. Do you believe the imposition of the death penalty is a legitimate punishment for someone convicted of murder in the first degree with special circumstances?
☐ Yes ☐ No
11. Do you feel the death penalty is imposed: _____ Too often _____ Too seldom
_____ Randomly _____ About right
12. Do you have any close friends or relatives who would criticize you or be disappointed in you if you voted for or against the death penalty? ☐ Yes ☐ No
If yes, please explain: _____

13. Do you believe that a sentence of life without the possibility of parole means the person will remain in prison for the remainder of his *entire* life? ☐ Yes ☐ No
14. Do you believe the impact this crime may have had on the family of the victim is something relevant to the jury's consideration of penalty? ☐ Yes ☐ No
Please explain: _____

15. Do you believe the impact this crime may have had on the family of the defendant is something relevant to the jury's consideration of penalty? ☐ Yes ☐ No
Please explain: _____

16. Do you believe that background information about a defendant is something relevant to the jury's consideration of penalty? ☐ Yes ☐ No Why or Why Not?: _____

17. What type of information would you want to learn about a defendant before deciding on the appropriate punishment for a first degree murder?

18. Are there any types of cases where you feel the punishment of death should be automatically given? ☐ Yes ☐ No
If yes, please what types of cases?: _____

19. Have you ever heard about a case where the punishment was NOT the death penalty and you felt disappointed? ☐ Yes ☐ No
If yes, which case(s): _____

20. Regarding the statement: "Anyone who intentionally kills a law another person should ALWAYS get the death penalty." Do you:
☐ Strongly Agree ☐ Strongly Disagree
☐ Agree Somewhat ☐ Disagree Somewhat
Please explain: _____

21. Regarding the statement: "Anyone who intentionally kills a law another person should NEVER get the death penalty." Do you:
☐ Strongly Agree ☐ Strongly Disagree
☐ Agree Somewhat ☐ Disagree Somewhat
Please explain: _____

22. Do you believe it would be easier to sentence a defendant to death if he or she were a member of a gang? ☐ Yes ☐ No

If yes, why?: _____

23. Do you feel that if a killing by gunshot wounds is described to you in testimony and depicted in photographs you may become so overcome with an emotion or emotions such as fear, anger, sympathy, or revulsion that you would not be able to fairly and impartially evaluate the physical and testimonial evidence in this case? ☐ Yes ☐ No

Please explain your answer fully: _____

24. Have you, a relative, or a close friend ever visited or been inside a jail, prison, or juvenile custody facility? ☐ Yes ☐ No

If so, what were the circumstances? _____

25. What are your beliefs about the conditions on Death Row? _____

26. In general, which punishment do you believe is worse for the defendant?

☐ Death ☐ Life in Prison Without the Possibility of Parole (LWOP)

27. There are no circumstances under which a jury is instructed by the Court to return a verdict in favor of the Death Penalty. No matter what the evidence shows, the jury is always given the option in the penalty phase of choosing Life Without the Possibility of Parole (LWOP).

(a) Given the fact that you will have two options available to you in the penalty phase, can you see yourself voting in favor of Life In Prison Without the Possibility of Parole (LWOP) and rejecting the Death Penalty? ☐ Yes ☐ No

(b) Given the fact that you have two options available to you, can you see yourself in the appropriate case voting in favor of the Death Penalty and rejecting the Life Without the Possibility of Parole (LWOP)? ☐ Yes ☐ No

28. At this point, before you have heard any evidence, do you believe you are open minded about what the penalty should be (if the defendant is found guilty of the first degree murder described in these materials, and as read to you by the Judge)? ☐ Yes ☐ No

29. If you were a juror at a penalty phase, would you be able to listen to all the evidence, as well as the judge's instructions on the law, and give honest consideration to both the Death Penalty and Life Without the Possibility of Parole (LWOP) before reaching a decision?
☐ Yes ☐ No

The Role Of a Juror

30. The jurors who decide this case will be instructed that they must set aside any opinions they had about the case before the trial so they can base their decision solely on the evidence presented in Court. Do you believe you can do this? ☐ Yes ☐ No

If "No", why not? _____

31. Would you be able to follow an instruction by the Court to refrain from discussing any details about this case, including any references to the death penalty, until the trial is concluded?

☐ Yes ☐ No ☐ It would be very difficult

32. Some evidence in this trial may be explicit and graphic. You may be asked to watch a video tape of a shooting and look at photographs of the deceased. Do you believe looking at such evidence would upset you so much that you couldn't fairly listen to and consider all the evidence in this case? ☐ Yes ☐ No

If "No", why not? _____

33. Do you recognize that in a civil case the burden of proof is preponderance of the evidence, but in a criminal case, the people must prove guilt beyond a reasonable doubt?

☐ Yes ☐ No

How do you feel about that? _____

34. In a criminal case, the Constitution gives a defendant the right to remain silent. That means the defendant is not required to testify. If the defendant decides not to testify, jurors are not supposed to draw any conclusions from that fact. How do you feel about that? _____

35. If you believed at the conclusion of the trial that the prosecution had proved its case beyond a reasonable doubt, you could return a verdict of Guilty without regard to the consequences? ☐ Yes ☐ No
36. If you believed at the conclusion of the trial that the prosecution had not proved its case beyond a reasonable doubt, could you return a verdict of Not Guilty without regard to the consequences? ☐ Yes ☐ No
37. It may appear to you that some of the participants in this trial (defendant, attorneys, witnesses or court personnel) are from a national, racial, or religious group different than your own, or that they may have a lifestyle different than yours. Would this make it harder for you to be fair in listening to the evidence and deciding issues? ☐ Yes ☐ No

If yes, please explain your answer: _____

CONCLUSION

1. You, as a member of the jury, will be a judge of the facts. You will have the duty to judge the testimony of each witness and ultimately decide the controversy. Is there any reason that you know of that causes you to feel you could not judge the facts in this case because of the charges? ☐ Yes ☐ No
If yes, please explain: _____
- _____
- _____
- _____
2. This trial will take about four months. Do you have any problem with sitting as a juror in a case that may take this long to complete? ☐ Yes ☐ No
If yes, please explain: _____
- _____
- _____
3. Other than the possible length of the trial, do you have any other concerns or reservations about sitting as a juror in this case? ☐ Yes ☐ No
If yes, please explain: _____
- _____
- _____

Juror ID# _____

4. In regard to the issues involved in this case, is there anything about you that this questionnaire does not address that you think might be important for the attorneys and the judge to know? ☐ Yes ☐ No

If yes, please explain: _____

5. Is there anything that has come up in this questionnaire that creates a doubt in your mind as to whether you could be a fair, objective and impartial juror in this particular case?

☐ Yes ☐ No

If yes, please explain: _____

KNOWLEDGE OF TRIAL PARTICIPANTS

1. Do you know any of the following witnesses who may testify in this trial?
(Please circle any names you know or are familiar with)

List witnesses.

If any of the above names are familiar to you, please explain who you know, how you know that person, and how often you communicate with any of the above.

I declare under penalty of perjury that the foregoing information is true and correct.

Date: Signature: _____

Juror ID# _____

Continue your answers on this page.
Be sure to write the number of the question(s) you are continuing.

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Yolo. I am over the age of eighteen years and not a party to the above-entitled action; my business address is 430 Third Street, Woodland, CA 95695

On the date below, I served the following document(s):

DEFENDANT'S PROPOSED JURY QUESTIONNAIRE

☐ BY MAIL. I caused such envelope, with postage thereon fully prepaid, to be placed in the United States Mail at Sacramento, California addressed as follows:

☒ BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the offices of the person(s) listed below:


JEFF REISIG
Yolo County District Attorney
301 Second Street
Woodland, CA 95695

☐ BY FACSIMILE SERVICE. I caused the document(s) to be served via facsimile to the person(s) listed below:

☐ BY EMAIL ATTACHMENT. I caused the document(s) to be served via email as an attachment to the person(s) listed below:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April ²⁸~~27~~, 2009, at Woodland, California.


Declarant